

MESSAGE.

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A report relative to the seizure of the ship Bridgewater.

FEBRUARY 8, 1889.—Read and referred to the Committee on Foreign Relations and ordered to be printed.

To the Senate :

In response to the resolution of the Senate of the 23d ultimo, directing the Secretary of State to transmit to that body copies of all correspondence on the files of his Department relative to the case of the ship *Bridgewater*, I transmit herewith, being of the opinion that it is not incompatible with the public interest to do so, a report from the Secretary of State, accompanying which is the correspondence referred to.

GROVER CLEVELAND.

EXECUTIVE MANSION, *February 8, 1889.*

To the President :

The undersigned, to whom was addressed the resolution of the Senate of the 23d ultimo, directing him "to transmit to the Senate copies of all correspondence on the files of the Department of State relative to the seizure and release of the ship *Bridgewater*, owned by Mary E. Allen, of New York, and of all documents and papers in his possession relative thereto," has the honor to submit herewith to the President for transmission to the Senate, should it be deemed by him compatible with the public interest, copies of the correspondence referred to.

Respectfully submitted:

T. F. BAYARD.

DEPARTMENT OF STATE,
Washington, February 8, 1889.

LIST OF PAPERS IN THE CASE OF THE AMERICAN SHIP "BRIDGEWATER."

1. Mr. Robertson to Mr. Porter, July 30, 1887. No. 86.
2. Mr. Phelan to Mr. Porter, August 11, 1887. No. 184.
3. Mr. Porter to Mr. Robertson, August 25, 1887. No. 40.
4. Mrs. Allen to Mr. Bayard, June 1, 1888.
5. Mr. Bayard to Mr. Edwardes, June 22, 1888.
6. Mr. Edwardes to Mr. Bayard, June 25, 1888.
7. Mr. Bayard to Mr. Herbert, November 23, 1888.
8. Mr. Herbert to Mr. Bayard, November 24, 1888.
9. Mr. Allen to Mr. Bayard, January 19, 1889.
10. Same to same, January 19, 1889.
11. Mr. Bayard to Mr. Phelps, January 23, 1889. No. 1049.
12. Mrs. Allen to Mr. Bayard, January 23, 1889.
13. Mr. Rives to Mrs. Allen, February 1, 1889.

No. 1.

Mr. Robertson to Mr. Porter.

No. 86.] COMMERCIAL AGENCY OF THE UNITED STATES,
Yarmouth, N. S., July 30, 1887. (Received August 3.)

SIR : I had the honor to telegraph you this day as follows :

Ship *Bridgewater*, New York, seized at Shelburne by collector ; will forward detailed report.

In explanation I would now beg to forward the within letter of July 30, handed me in person by John H. Allen, esq., accompanied by his sworn statement, here inclosed, regarding the circumstances attending the seizure of the *Bridgewater*, which, I think, will present the facts clearly and comprehensively to the Department. I also inclose a copy of the statute, section 41, chapter 12, 46 Vic., under which, as per memorandum of the collector embodied in Mr. Allen's deposition, the vessel is held. It seems that the collector of customs at Shelburne, acting, as I am advised by the consular agent at that port, under instructions from Ottawa, holds and bases his action upon the hypothesis that the recommended condemnation of the *Bridgewater* and her subsequent offer for sale at auction destroy her character as an American ship and either constitute her thereafter an importation, a merchantable structure, devoid of all the characteristics of a vessel, and subject to an impost of 25 per cent., or demand her registry, if repaired, under British colors, at a payment to the Canadian Government of a 10 per cent. duty.

In the first place, however, as will be seen from Mr. Allen's statement, the owners of the ship have never accepted her condemnation and made a practical protest against it by beginning her repair forthwith.

In the next, though the vessel was offered at auction, the sale would appear to have been virtually withdrawn by the owners' bidding her in themselves.

The question, then, underlying the whole matter would seem to be, has the *Bridgewater*, damaged at sea, formally entered at the port of Shelburne in observance of all the laws thereof, and there repaired, without undergoing any transfer of title or ownership and with her register still intact in the possession of the United States consular agent, lost her original character of a registered American ship?

If not, the action of the collector in thus depriving her of her nationality would appear a most unwarrantable supersession of the authority of an owner over his property.

I have forwarded a copy of all the papers inclosed to the consul-general at Halifax and await any instructions in the matter.

Mr. Allen leaves Yarmouth for Brooklyn on the evening of the 3d proximo.

I am, etc.,

W. H. ROBERTSON,
Commercial Agent.

[Inclosure 1 in No. 86.]

Mr. Allen to Mr. Robertson.

YARMOUTH, N. S., July 30, 1887.

DEAR SIR: The letter herewith I beg to hand you at the request of Consular Agent White at Shelburne, who has directed me while in this town on my way to New York to furnish you a statement of the seizure of ship *Bridgewater*, which you will find inclosed, begging you to represent the matter to the State Department with as little delay as possible, its urgency and importance being apparent.

Very respectfully,

JNO. H. ALLEN,
134 Macon St., Brooklyn, N. Y.

[Inclosure 2 in No. 86.]

SWORN STATEMENT OF JOHN H. ALLEN.

Ship *Bridgewater*, of New York, 1,482 tons register, sailed from St. John, N. B., April 1, 1887, for Penarth Roads, for orders, laden with lumber. April 2d and 3d experienced tempestuous weather during which ship became leaky and was forced to run to Shelburne, N. S., for shelter and repair, arriving April 5, and entering at the customs as required by law. Shortly thereafter surveys were held at the master's instigation, they recommending the cargo be landed and ship condemned on the ground, as stated, that the cost of making good the damages would exceed the value of the ship in her repaired state. When this was communicated to me in New York I at once telegraphed the master my disapproval, ordering him not to land cargo as recommended, or tender its abandonment, notwithstanding which he did the latter, on learning which I at once proceeded to Shelburne, where, meeting representatives of all interests in the whole venture, an agreement was arrived at whereby large expenses were avoided by substituting another ship for the completion of the voyage and discharging the cargo directly into her. When the cargo had been half discharged it was feasible and practicable to arrive at the whole damage sustained by the *Bridgewater* and the cost of making all good and seaworthy—the former, upon a careful examination, not being half what the survey detailed, and the cost, estimated by the surveyors approximately at \$20,000, not amounting to one-half that sum. During the transshipment of cargo it was reported to me a company had been formed to buy the *Bridgewater* and register her in Shelburne as a British ship, whereupon I caused her to be offered for sale at public auction, being previously assured by the American vice-consul that in event of the price being unsatisfactory and the former owner bidding her in, the register would remain with the ship. On June 8, when the cargo was about half discharged, the ship was offered for sale at auction, but as \$3,110 was the highest bid, she being a ship rated, when undertaking the present voyage, at \$30,000, and the cost, carefully estimated, of making her as good as then, at \$10,000, she was bid in for the owner and publicly so announced on the spot. On the following day, to wit, June 9, a force of shipwrights commenced repairing damages for account of, and being paid regularly by, the registered owner, said repairs continuing daily without cessation till 3 p. m., July 27, on which day and hour Collector Atwood seized and took possession of the *Bridgewater* for alleged non-payment of duty, though no demand had ever been made for such on any person representing the *Bridgewater*. On July 28, to wit, the day following the seizure, I called on Col-

lector Atwood requesting him to state to me why the *Bridgewater* was seized and for what sum. After some hesitation on his part he gave me in writing the following:

"MEMO.

"Ship *Bridgewater* seized for non-payment of duty, under section 41, chapter 12, 46 Vic.

"W. W. ATWOOD,
"Collector.

"SHELburne, July 28, 1887."

Collector Atwood declined giving me anything more definite or specific than the foregoing, but thirty minutes later—that is to say, at 2.30 p. m., July 28—handed me, in the consul's office at Shelburne, the following writing:

"MEMO.

"The duty demanded on the ship *Bridgewater*, sold at this port, is 25 per cent. on account sale.

"W. W. ATWOOD,
"Collector.

"SHELburne, July 28, 1887."

Immediately after the seizure, much feeling and indignation being manifested by those employed in making the repairs, Collector Atwood called on me and stated that he had no intention of interfering with the repairs, and that they could be proceeded with; but considering he had seized the ship, painted the Queen's broad arrow on the mast, put armed men in possession, and informed me the *Bridgewater* was a forfeiture to the Dominion Government, I was not disposed to act on his suggestion, and left the property in his charge.

Never for a moment did the *Bridgewater* lose the character of ship. It is true she came to Shelburne with considerable damage. Still she entered at the customs as an American registered ship, carefully adhering to every act and duty in its preservation; Consular Agent White at Shelburne, weeks before the seizure, notifying Collector Atwood of this. The seizure of the *Bridgewater* in the circumstances is a serious loss and injury in several ways to the owner. The repairs were about completed and business being sought for in our several loading ports, all of which we have been forced to abandon.

A scrutiny of the statute under which Collector Atwood proceeded reveals the fact that he is acting under the hypothesis that the *Bridgewater* is an importation of an indefinable character into the Dominion of Canada. Indeed, Collector Atwood stated it as specifically as that during my interview with him July 28, when he observed in answer to my complaint that no demand had been made on me for moneys, "You should have made entry at the customs and paid the duty." "But," I queried, "is not the *Bridgewater*, which you yourself call 'ship,' entered at the customs, and are you not notified that the United States consul holds her marine sailing documents?" A moment later, when pressing Collector Atwood to state what sum he requested from the *Bridgewater*, he answered, "The duty is 25 per cent., but if you will send to New York, cancel the register, and apply to me for a British one, the duty will be only 10 per cent.;" to which I answered, "You seized the *Bridgewater* yesterday as an imported nondescript, yet to-day you describe her as 'ship' and offer her documents as such if she be made British; we have no thoughts of changing her flag."

We complain, first, that Collector Atwood permitted the repairs to continue at great cost for seven weeks, and when about completed took possession of the ship in her repaired state. Second, that after her seizure and intimation to me that she was a forfeiture to his Government, he nevertheless endeavored to induce me to still add to the value of the property he had taken possession of. Third, the trifling and shifting manner displayed by him in a matter of the gravest commercial importance to those interested, in this: while at one moment treating the registered American ship *Bridgewater* as an imported nondescript, the next calling her a ship and attempting by reducing the fine and withdrawing the seizure to coerce her to change of ownership and flag. Fourth, the circumstances under which the *Bridgewater* entered the port of Shelburne justified our belief that every assistance would be extended, as is done the world over, and the property made safe to us by the authorities. As it is, and from the outset, there appears to have been an attempt to possess it without compensation.

JOHN H. ALLEN,
Managing owner and attorney for Mary W. Allen.

Sworn and subscribed before me, at Yarmouth, Nova Scotia, this 30th day of July, 1887.

[L. s.]

W. HENRY ROBERTSON,
U. S. Commercial Agent, Yarmouth, Nova Scotia.

[Inclosure 3 in No. 86.]

Statutes of Canada—1883-4; Section 41, Chap. 12, 46 Vic.

The person entering any goods inwards shall deliver to the collector or other proper officer an invoice of such goods, showing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer, and if imported by water the name of the vessel and of the master, and of the place to which bound, and of the place within the port where the goods are to be unladen, and the description of the goods, and the marks and numbers and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

No. 2.

Mr. Phelan to Mr. Porter.

No. 184.]

UNITED STATES CONSULATE GENERAL,

Halifax, Nova Scotia, August 11, 1887. (Received August 15.)

SIR: I have the honor to report that the American ship *Bridgewater* was seized by the collector of customs at Shelburne, Nova Scotia, a short time ago on a customs claim of several hundred dollars. The vessel sprung aleak, had entered Shelburne for repairs, had been sold to settle some insurance dispute, as is alleged, and was purchased by the original owners. The collector claims a 25 per cent. duty on the value or sale, and the owners resist payment.

The managing owner abandoned the vessel to the collector and sailed for New York without apprising this office of the particulars of the case or sending here any of the papers necessary in the event of any action by the Department. Mr. William Allen, a brother of the managing owner, called here yesterday and inquired if the Department had taken any action in the premises, or had sent any instructions to this office. He was informed that no instructions had been received and none expected; that if the Department acted it would be upon advice from this office, and I was not in possession of the facts and papers in the case.

From what I know myself and from all I can learn from Mr. Allen, I do not see that the Department would be warranted in interfering. If the owners of the vessel have been wrongfully taxed, the courts of the province afford an ample remedy. If anything should occur that would give to the case an international bearing I shall advise the Department at once.

I am, etc.,

M. H. PHELAN,
Consul-General.

No. 3.

Mr. Porter to Mr. Robertson.

No. 40.]

DEPARTMENT OF STATE,

Washington, August 25, 1887.

SIR: With reference to your No. 86, of the 30th ultimo, reporting the seizure and sale of the American ship *Bridgewater* by the collector at

Shelburne, N. S., I have to inform you that, as at present advised, there seems to be no occasion for the intervention of the Department. If the owners of the *Bridgewater* have been unjustly treated they should seek redress through the colonial courts, which are open to them.

I am, etc.,

JAS. D. PORTER,
Assistant Secretary.

No. 4.

Mrs. Allen to Mr. Bayard.

BROOKLYN, June 1, 1888. (Received June 1.)

SIR: The petition of Mary Warren Allen, of Brooklyn, in the State of New York, in the county of Kings, sheweth that previous to the 1st day of April, in the year 1887, and up to the day of the date hereof, she was and has been the owner of the ship *Bridgewater*, a vessel registered at the port of New York, of the burden of 2,500 tons, or of 1,557 gross register tons.

The said ship *Bridgewater* sailed from the port of St. John, in the province of New Brunswick, laden with deals, bound for Penarth Roads, on or about the said 1st day of April, A. D. 1887, and having experienced a heavy storm and being damaged and injured, put into the port of Shelburne, in the province of Nova Scotia, on the 5th day of said April, for shelter and repairs.

Surveys were held upon said ship, the cargo was discharged and transferred to another ship while lying at anchor in the harbor, in order that the deals might be speedily sent to the port of destination, and your petitioner proceeded to repair and refit the said ship under the management and direction of Capt. John H. Allen, her agent, who purchased the necessary materials and was employed with a number of men in making the ship fit for sea.

On the 27th day of July last past, and while said repairs were in progress, W. W. Atwood, esq., the collector of customs for the said port of Shelburne, acting under instructions from the department of customs at Ottawa, seized and took possession of the said ship for non-payment of duty, claiming and demanding that the said ship should pay duty and was liable for the same at the rate of 25 per cent.

Your petitioner refused to pay the duty claimed, and caused a written notice to be served on the said W. W. Atwood, collector of customs, on the 30th day of said month of July, complaining of the seizure and claiming damages, but the said collector did not relinquish the seizure, but kept and retained possession of the said ship, her tackle, stores, and appurtenances, and placed an officer in charge of and on board of her, and kept possession of said vessel and her appurtenances up to and until the 22d day of September last, notwithstanding the frequent written protests made by said John H. Allen on behalf of the owner, and served on said collector, when the said W. W. Atwood, collector as aforesaid, gave a written notice to said John H. Allen that he was authorized by the acting commissioner of customs to release the ship *Bridgewater* on condition that she should take a clearance to a foreign port and leave the country on completion of repairs, after first paying all expenses incurred in connection with

the seizure, and after formally withdrawing the protests made, and given a written abandonment of all claims upon the Government or seizing officer on account of said seizure, but your petitioner refused to comply with said conditions, and the said vessel was kept and detained by said collector until the 15th day of October last, when the seizure was released and the claim for duty abandoned.

In consequence of said seizure and detention, your petitioner was prevented and delayed in making and completing the necessary repairs and refitting, and was obliged to discharge the men employed and suspend work, the ship in the meantime being greatly injured by the stoppage of work and inability of those having her in charge to properly take care of her.

That your petitioner not only lost the use and employment of the said ship during her seizure and detention, but the delay in releasing the said vessel from seizure compelled the abandonment of a charter-party and the employment of said ship on a voyage from Bersimis, Province of Quebec, to Liverpool, Great Britain, as the said ship, in consequence of the lateness of the season, was unable to reach the said port of Bersimis and carry out said charter-party or obtain said employment, although every effort was made to do so. Your petitioner has suffered very serious loss in consequence, and your petitioner has also been obliged to pay her agent, John H. Allen, a large sum to remain at the port of Shelburne and look after and superintend the vessel and the business and matters connected with the said seizure and other costs, charges, and expenses incidental to the said seizure and detention and procuring the release of the said vessel.

Your petitioner was advised, and it was conceived to be her duty, that if the courts of Canada were open to her for redress of such a grievance it was incumbent on her to seek it there rather than invoke the aid of her Government. For nine months she has been endeavoring to obtain a court of competent jurisdiction in which the case could be argued and disposed of on its merits, but it would appear from the documents hereto annexed that the law courts of the Dominion of Canada can afford her no relief.

Your suppliant and petitioner appends hereto a statement of her claim for compensation and damages and prays that the Government of the United States will take such proceedings as may be necessary to the end that right may be done, the relief claimed be granted, and the amount thereof paid to her.

Dated at Brooklyn, N. Y., in the county of Kings, this 1st day of June, A. D. 1888.

MARY WARREN ALLEN,
134 Macon street.

[Inclosure 1.]

[Newspaper extract. The Free Press, Ottawa, Ont., Friday, May 25, 1888.]

Compensation refused to the owner of the ship Bridgewater for the seizure and detention of an American vessel which sought shelter in distress.

The minister of customs yesterday sent a letter to the managing owner of the American ship *Bridgewater*, which was seized at Shelburne, Nova Scotia, in August last, detained for eighty-one days, and then unconditionally released, notifying him that the minister of justice has reported that as he has no legal recourse against the Crown or any of its officers on account of the seizure, the Government do not intend

to entertain his claim for compensation. The following is a copy of Mr. Bowell's letter:

OTTAWA, May 24, 1888.

SIR: I am this day in receipt of the opinion of the minister of justice *in re* your claim for damages for alleged detention of the ship *Bridgewater* at the port of Shelburne, Nova Scotia, in which he says: "The claimant Allen can not recover against any officer of the Crown for damages sustained in consequence of the seizure."

Under the circumstances I do not deem it advisable to further consider the question of recognizing your claim until the decision of the courts in the case has been rendered.

I have the honor to be, sir, your obedient servant,

M. BOWELL.

J. H. ALLEN, Esq., etc.

HISTORY OF THE CASE.

Mr. J. H. Allen, of New York, managing owner of the *Bridgewater*, has been in Ottawa for over two weeks endeavoring to induce the government to recognize the justice of his claim for damages on account of the illegal seizure of his vessel. He had prepared a memorial to the United States Secretary of State, and intended submitting his grievance to the Washington Government, but before doing so was induced by Senator James G. Ross, of Quebec, one of his personal friends, to come to Ottawa and ask the Dominion government to settle the matter amicably. On being asked to give a brief review of the case Mr. Allen said: "The *Bridgewater*, a registered American ship of 1,557 tons, sailed from St. John, New Brunswick, for Liverpool, on the 1st of April, 1887, with a cargo of deals. On April 5 she put into Shelburne, damaged, having encountered a heavy gale. She was duly entered at the customs, complying with all the laws.

"The owners of the cargo, foreseeing great delay to the delivery of their goods if kept at Shelburne pending repairs to the vessel, had the deals transferred to another ship, and the *Bridgewater* was put up for sale, just to see what would be bid for her. There were no bids, and consequently no sale, and the work of repairing was proceeded with. Then the collector of customs, Mr. Atwood, seized the vessel as an importation, and demanded 25 per cent. duty on the value. His course was approved by the customs department here. I protested against the seizure through Mr. White, the consular agent of the United States at Shelburne, and as soon as Mr. McLelan, the then acting minister of customs, returned from British Columbia, he sent the following telegram to Mr. White in reply to one from that gentleman:

"OTTAWA, September 16, 1887.

"N. W. WHITE, Shelburne, N. S.:

"Allen can repair and take vessel away. If he requires Canadian register he will have to pay duty.

"A. W. MCLELAN,
"Acting Minister of Customs."

"Of course I did not want a Canadian register, and according to Mr. McLelan's decision my vessel was not liable for duty. But the collector refused to act on Mr. McLelan's telegram, but retained custody of the vessel. I was told that I might go on with my repairs, but could not see the sense of spending money on a vessel that was then and for all I knew might continue to be the property of the government. On the 22d of September I got the following letter from the collector:

"SHELBURNE, September 22, 1887.

"SIR: I have to inform you that the acting commissioner of customs authorizes the release of the ship *Bridgewater* on condition that she takes a clearance to a foreign port and leaves the country on completion of the repairs, after first paying all expenses incurred in connection with the seizure and after you have formally withdrawn the protests made and given a written abandonment of all claims upon the government or seizing officer on account of seizure. You will please let me know whether these conditions will be complied with, and I will give you an account of expenses.

"I am, sir, your obedient servant,

"W. W. ATWOOD,
"Collector."

"J. H. ALLEN, Esq."

THE PROPOSITION REFUSED.

"Of course," continued Mr. Allen, "I could not accept the release upon any such conditions. I wanted to send the vessel to Quebec for a cargo, and did not propose to give up my claim for damages or to pay the costs connected with an unjust or illegal seizure, so the *Bridgewater* was detained until Mr. Bowell returned, when she was released unconditionally. I now claim about \$20,000, this sum being the actual loss sustained by me in consequence of the illegal seizure and detention of the *Bridgewater*, and I intend to press my claim through the United States Government. In consequence of the seizure, the vessel not only lost a voyage, but it compelled the abandonment of a charter-party, because the season was so far advanced that she was not able to reach Bersimis to load deals for Liverpool. The *Bridgewater* was offered for sale, but it was as a registered ship of the United States, and even if she had changed ownership, which she did not, the Government of Canada could not legally assess her for duty. No American customs official would dream of levying customs duty upon a ship sold by one British subject to another in a United States port so long as the register remained British.

HIS RECEPTION IN OTTAWA.

"When I came to Ottawa at the request of Mr. Ross I was exceedingly hopeful that the matter would be amicably arranged. The ministers never denied that the seizure was an unjust one and that I was entitled to compensation, but as it seems that the minister of justice believes that I have lost my recourse in the law courts, the Government refuse to consider the equities of the case and propose to ignore my claims. I doubt if the United States Government will treat the matter so lightly, or that the British authorities will attempt to justify the Canadian Government's course. Notwithstanding Mr. McLelan's telegram of 22d September, ordering the release of the vessel, I was notified by Collector Atwood on the 5th of October that the *Bridgewater* was still under seizure, and that any attempt to remove her would be a felony. Why the customs officials refused to pay any attention to Mr. McLelan's orders I can not explain. I am told that the commissioner of customs declares that the seizure was perfectly legal and just; but if that were so, surely the minister would never have ordered the vessel's release."

THE BRIDGEWATER CASE. (EDITORIAL.)

The Dominion Government have refused to grant the owner of the American ship *Bridgewater* any compensation for the unjust seizure and detention of his vessel for eighty-one days at the port of Shelburne last autumn. This decision on the part of the ministers of justice and customs is exceedingly unfortunate, especially in view of the existing diplomatic relations between this country and the United States. If the Dominion Government are really anxious to have the fisheries treaty ratified by the United States Senate, and all outstanding disputes between the two countries amicably adjusted, they should avoid provoking fresh antagonisms and opening up new difficulties. The seizure and detention of the *Bridgewater* was an utterly unjustifiable proceeding, and the Free Press said so when the facts were first made known. Of course the action of the customs department was defended by the organs of the Government, but the views of the Free Press were approved by the acting minister of customs, Mr. McLelan, on his return from British Columbia last September, and also by the minister of customs, who ordered the unconditional release of the vessel as soon as he arrived home from England and was made aware of all the facts.

Having thus acknowledged that the seizure and detention of the vessel were illegal and unwarranted, the Government are in duty bound to compensate the owner for the losses he has sustained, but this they refuse to do. Is this fair treatment to accord an American vessel which put into a Canadian port in distress? A few weeks ago Sir Charles Tupper talked about the Government anxiety to "hold out the olive branch" to our American neighbors. His colleagues seem to have abandoned his policy of conciliation as soon as he left the country. By refusing to compensate the owner of the *Bridgewater* for the unjust seizure of his vessel, the Government have placed Canada in a false position with regard to a matter which is now to become a subject of diplomatic correspondence between the British and United States authorities. Canada is not in a position to reproach the United States with unjustly seizing Canadian vessels in Behring Sea so long as the Americans are able to cite the *Bridgewater* case as an instance of gross wrong perpetrated by the Dominion towards a distressed American ship. The answer of the minister of customs to Mr. Allen's claim simply gives the Government's case away.

The minister of justice, upon whose report the customs department have acted, does not say that the seizure was just or legal, or that the claim for damages is not well founded. Mr. Thompson simply shelters himself behind the technical plea that Mr. Allen has no recourse at law, and that therefore he should get no compensation. Is that the way that the Government of a country like Canada should treat a for-

signer who has suffered a grievous wrong at the hands of the customs officers? In this matter, as in others, the ministers will have to back down, and it would have been far more dignified and creditable had they treated the owner of the *Bridgewater* in a liberal and just spirit in the first instance. The seizure of that vessel, under such circumstances, is an act which no British minister can attempt to justify, and such being the case, the party who has suffered by that unjust seizure is entitled to compensation.

[Inclosure 2.]

[The Free Press, Ottawa, Saturday, May 26, 1888.]

NOT AN ORDINARY CASE.

The seizure and detention of the American ship *Bridgewater* was not an ordinary seizure of a chattel or chattels. It was a direct violation of the international shipping regulations which have been in force for half a century between Great Britain and the United States, and to which Canada, as a dependency of the British Crown, is subject. The vessel put into Shelburne for repairs. She was not sold, though offered for sale, and was seized for customs duties while in the act of repairing and preparing to go to sea again. There was not the slightest ground for the seizure of the vessel, and as such seizure amounts to a violation of an international treaty, the subject is a very proper one for diplomatic adjustment, more especially as the minister of justice reports that the owner of the *Bridgewater* "can not recover against any officer of the Crown for damages sustained in consequence of the seizure," and as the Dominion Government refuse to entertain his claim for compensation. It is not creditable to Canada that the Government should refuse to compensate the owner of a foreign vessel for injuries sustained through the blundering of the customs authorities.

If the country has in its employment men who do not understand their duties, and who, by officiousness or misdirected zeal, cause damage or loss to foreigners or Canadians, the country should be prepared to repair the injury, even if the complainants have no recourse at law. That the seizure and detention of the *Bridgewater* were illegal and wrong have been admitted by the Government in ordering her release, and that being so, it is just that the owner of the vessel should receive compensation for the losses he sustained. In a letter addressed to the consular agent of the United States at Shelburne, after the seizure, Mr. Johnson, the commissioner of customs, defended the seizure of the *Bridgewater*, and intimated that duty had been collected frequently upon foreign vessels entering Canadian ports under similar circumstances. If so, then a great many acts of injustice have been perpetrated. American vessels have a perfect right to come into Canadian ports for repairs just as British vessels have to go into American ports for repairs, without being liable for customs duty or to be otherwise interfered with.

When a ship obtains a register from the government of the country to which she belongs, that register is a passport entitling her to enter the ports of any nation, subject always to international shipping law, and to refuse to an American vessel the right of repairing damages in a Canadian port is illegal and indefensible; hence the government of Canada have nothing to gain, but everything to lose, by going into a diplomatic conflict over the seizure of the *Bridgewater*. A discussion of the matter through diplomatic channels would only lead to further irritation and a prolongation of the unfortunate disputes which have arisen between this country and the United States by a too strict enforcement of the Canadian coasting regulations against American fishing vessels. Though the seizure of the *Bridgewater* had no connection with the fisheries question, it will afford those who are anxious to prevent any fair settlement of that dispute fresh ground for alleging that Canada is not disposed to accord fair treatment to American vessels frequenting her ports. The Dominion government should avoid everything tending to provoke or afford an excuse for that "commercial war" which is threatened, and which Sir Charles Tupper has said would be such a calamity for this country.

[Inclosure 3.]

Mr. Merse to Mr. Allen.

Re ALLEN vs. THE QUEEN.

OTTAWA, April 30, 1888.

MY DEAR SIR: Since the original petition of right in the above cause has been in my possession and the whole case been thoroughly reviewed by me in the light of the best authorities and decisions at my disposal in the supreme court library here, I

have come with much regret to the conclusion that your chance of success is very limited in the exchequer court. I have no hesitancy in saying that nothing can be hoped for from the petition of right, inasmuch as the case being founded in tort and you are not asking for restitution of property but merely damages for trespass, such process is demurrable and must only lead to defeat and consequent costs. It is hardly necessary for me here to present in detail the premises from which I have drawn my conclusions, because I believe you will do me the justice to feel that I am not advising you at this juncture crudely and without deliberation. I feel it my duty to speak out before you have been involved in vexatious litigation and much fruitless expense. Of course you must take further advice from your counsel in Shelburne. I have written him fully and sent him the brief upon which I base my opinion, and you may write him and inquire if he thinks it well founded.

I did not hand the papers in the matter to legal agents here because I thought it better to save that expense to you, even at the risk of being thought officious. You will see upon reference to my former letters that I was of the opinion that it would have been well to have brought a personal action against Atwood in Shelburne, but counsel thought otherwise, and as I had not fully gone into the matter then, and moreover as I was only junior counsel and only accidentally brought into the case, it was becoming in me not to insist too strenuously upon my views. It was true the statute gave a sort of protection to the seizing officer, but that protection depended solely upon the legal meaning of "reasonable and probable cause" for his acts, and I felt that he would have some difficulty in substantiating such a defense under the circumstances. I am afraid we are too late to take that step now. Before going thoroughly into the question of petition of right, I quite agreed that you had also a good case in the exchequer court. I now think otherwise, and sincerely regret that we did not think it best to go into the supreme court in Shelburne. You must still make your claim against the Crown, but I fear its recognition depends more upon the moral worth of the minister than any legal sanction you have for enforcing it. We can not go into the exchequer court.

I write this letter to you in all candor and you must please understand I am not trying to shift the blame on my senior counsel's shoulder solely. I am as much at fault as he. Were it to serve so small an end, I am quite sure its object would be frustrated. I must ask you to consider this letter as a confidential one in terms, although you will of course have to mention the opinion I give in your letter to counsel in Shelburne. He may differ with me, and I sincerely trust that he may discover a safe way of proceeding in the exchequer court. I could not, however, allow you to go on without apprising you of the result of my examination of the case.

Believe me, yours very sincerely,

CHAS. MERSE.

P. S.—You may expect additional papers from me in a day or two.

[NOTE by Mr. ALLEN.—The writer of this letter, the junior counsel in the action we instituted in November last, was called from Shelburne to Ottawa early in January and given a lucrative and permanent position under the Government in the very court we were to have our cause tried in; and the senior counsel, so it is rumored, as we are advised, is soon to have a judgeship. In the circumstances it is not at all surprising that the Canadian minister of justice advises that the courts of Canada can not be availed of to expose and remedy the persistent wrong-doing of the officials of that country.]

[Inclosure 4.]

Mr. Allen to Mr. Bowell.

Re BRIDGEWATER.

OTTAWA, May 15, 1888.

SIR: The facts relating to the seizure of this ship are respectfully submitted for your consideration.

The *Bridgewater*, registered at the port of New York and owned by Mary Warren Allen (certified copy of certificate of registry appended hereto) sailed from St. John, New Brunswick, for Liverpool, Great Britain, April 1, 1887, laden with deal. April 5 she put into Shelburne, Nova Scotia, with damage, having encountered a heavy gale. She was duly entered at the customs, complying with all the laws. The owners of cargo, foreseeing great delay with their goods if kept in Shelburne till repairs were completed, entered into an arrangement with the owner of the *Bridgewater* whereby

the cargo, was sent to its destination in another ship. Before the cargo had been all discharged the ship was offered for sale, but the price offered being so much below her value she was withdrawn, and carpenters commenced at once to repair her.

On July 27, when the repairs were about completed, the collector of customs seized the ship for non-payment of duty (see the Department's letters dated July 29 and August 12 appended hereto), and she was taken possession of by the Government officials, the master withdrawing his people from her. On the 16th day of September the Hon. A. W. McLelan, acting minister of customs, ordered the ship's release (see telegram dated September 16 appended hereto), but the collector did not comply with the mandate and it was only on the 15th day of October, eighty-one days after the seizure, that the ship was actually released—it now being too late to make the chartered voyage, though the most strenuous effort was made to do so (see marine protest hereto attached) by those having the property in charge. The correspondence relating to her release and the letter of release itself will also be found in the papers hereto attached.

It is respectfully urged that inasmuch as the *Bridgewater* was always a registered ship of the United States she was not assessable for duty, this fact being brought to the attention of the collector by the production of the certificate of registry before he had actually made the seizure. It is further urged that in a matter of such grave moment to the owner—having lost the benefit of the voyage through the perils of the seas and come under heavy liability for making good the damages to the ship—she should not have been deprived of the use of her property for eighty-one days when four and twenty hours would have sufficed to have determined whether law had been violated or not. For this error, which we have suffered to the extent of our statement herewith, we respectfully ask you to indemnify us.

Very respectfully,

JNO. H. ALLEN,
For Mary W. Allen.

[Inclosure 5.]

Mr. Bowell to Mr. Allen.

Seizure, 4151-8.

OTTAWA, May 24, 1888.

SIR: I am this day in receipt of the opinion of the minister of justice in re your claim for damages for alleged detention of the ship *Bridgewater* at the Port of Shelburne, Nova Scotia, in which he says "the claimant, Allen, can not recover against any officer of the Crown for damages sustained in consequence of the seizure."

Under the circumstances I do not deem it advisable to further consider the question of recognizing your claim until the decision of the courts in the case has been rendered.

I have the honor to be, etc.,

M. BOWELL.

[Inclosure 6.]

Statement of claim of the petitioner, Mary Warren Allen, of 134 Macon street, Brooklyn, N. Y., against the Government of the Dominion of Canada.

For seizure and detention of the ship <i>Bridgewater</i> , of New York, 1,557 tons gross register, from July 27, 1887, till October 15, 1887, both inclusive, at 8 cents per ton per diem.....	\$10,089.48
Injury to stagings, ropes, running rigging, boats, deterioration of the uncompleted work, loss of ship's material and stores while under seizure and in possession of Government's officials.....	1,000.00
Loss of thirty-one days' time, endeavoring to reach Bersimis (see marine protest herewith), at 8 cents per register ton per diem	3,861.36
Loss, by forced abandonment of voyage to Liverpool, Great Britain, via Bersimis, on account of the lateness of the season, made up as follows:	
Gross estimated freight.....	£1,900 0 0
Total estimated disbursements at Bersimis	175 0 0
Net freight in ship when sailing from Bersimis.....	1,725 0 0

CREDIT.

Substituted voyage to Liverpool via St. John :		
Gross freight under charter	£1,454 17 6	
Less expenses in St. John getting cargo	577 10 0	
<hr/>		
Net freight from St. John under substitute charter	877 7 6	
Difference between what ship would have earned <i>via</i> Bersimis and what she did earn <i>via</i> St. John to Liverpool	84 12 6	
(Exchange, 4.84)		\$4,102 54
Mr. J. H. Allen, agent: His expenses and time covering a period of ninety days, protecting their interest		1,000 00
The legal expenses incurred in connection with this matter		250 00

Amount claimed to be due the owner of *Bridgewater* November 30, 1887... 20,303 26
And interest thereafter to date of settlement.

BROOKLYN, N. Y., April 13, 1888.

MARY WARREN ALLEN.

COUNTY OF KINGS,

State of New York, City of Brooklyn :

On this the ninth day of May in the year 1888, before me personally came Mary Warren Allen, to me known to be the individual described in and who executed the annexed instrument, and acknowledged that she executed the same for the purposes therein mentioned.

[SEAL.]

CLARENCE B. ENSLEY,
Notary Public, Kings Co., N. Y.

STATE OF NEW YORK,

County of Kings :

I, John M. Rankin, clerk of the county of Kings and clerk of the supreme court of the State of New York in and for said county (said court being a court of record), do hereby certify that Clarence B. Ensley, whose name is subscribed to the certificate of proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a notary public of the State of New York in and for the said county of Kings, dwelling in said county, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such notary and verily believe the signature to the said certificate is genuine, and that said instrument is executed and acknowledged according to the laws of the State of New York.

In testimony whereof I have hereunto set my hand and affixed the seal of said county and court, this 9th day of May, 1888.

[SEAL.]

JOHN M. RANKIN,
Clerk.

[Inclosure 7.]

Mr. White to Mr. Phelan.

PROVINCE OF NOVA SCOTIA, PORT OF SHELburnE,
United States Consular Agency.

SIR: I have already forwarded to you the register of the United States ship *Bridgewater*, together with the original reports of surveys and other papers, and although you are in possession of all the facts and circumstances connected with the seizure, yet in view of the important questions involved and the very considerable loss which is daily accruing to the owner, I beg leave to forward a detailed statement of the vessel's history since her arrival here.

On the 5th day of April last, the *Bridgewater*, having just come into port and entered and reported at the custom-house, noted his protest before me, and on the following day a survey was held upon her. The ship was laden with deals bound from St. John, New Brunswick, to Penarth Roads, and had encountered a severe storm on the 2d and two following days of April, after leaving St. John, and was obliged to put into this port in a distressed and leaky condition. By the first survey the master was advised to remove the deck-load to enable a better examination of the ship to be made, and subsequently the surveyors recommended the cargo to be discharged and landed and a condemnation and sale of the ship, as in their opinion it would cost more to repair her than she would be worth when repaired.

The master, considering the vessel would not proceed to sea in the condition she was in, that it would be necessary to take her to some other port where there was a

marine slip, for a full repair, and that there was no ship in this or adjoining ports to be had capable of taking the cargo, abandoned the voyage and gave notice to the agent of the parties interested. Soon after this Capt. John H. Allen, the managing owner, arrived here, strongly expressing his disapproval of the master's act, but effected an arrangement to the mutual satisfaction of all the parties interested, and who were represented here, by which another vessel was brought here, the cargo was transferred directly from one ship to the other, and a large amount of expense saved.

Captain Allen about this time called on me, giving his reasons for not abandoning the ship, informed me of his intention to offer her for sale and asked me not to cancel the register in case he bid her in, and inasmuch as he had not adopted the recommendation of the surveyors for condemnation, and I did not think under the circumstances she could be considered a wreck, and in the event of his bidding her in there was no actual sale or transfer of the ship, I assured him I would not under the circumstances cancel the register in the usual way.

The *Bridgewater* was advertised and put up for sale on the 8th June and knocked down to the owner for the very small sum of \$ —. No money passed, nor was any transfer of the vessel made, and soon after Captain Allen commenced repairing her and workmen continued their operations until the 27th of July, when she was seized by the collector for non-payment of duty. At my suggestion Captain Allen called on Mr. Atwood, the collector, to ascertain why and for what sum the *Bridgewater* had been seized, and obtained the following memo.: "Ship *Bridgewater* seized for non-payment of duty under Sec. 41, Cap. 12-46 Vic.," and immediately after the collector handed to Captain Allen, at my office, another memo., as follows: "The duty demanded on the ship *Bridgewater* sold at this port is 25 per cent. on account of sale."

Captain Allen then discharged the workmen, and the ship has ever since been in charge of the customs.

I annex hereto copies of the letters received from the customs department from Ottawa, and also a copy of a notice served on the collector immediately after the seizure.

The customs authorities contend that the *Bridgewater* has lost her character as a ship, and now comes under the class of articles designated as a nondescript wooden manufacture, and claim that such an article imported into Canada is subject to 25 per cent.

I respectfully submit that under the circumstances the *Bridgewater* is still a ship entitled to all the privileges of a vessel sailing under a United States register. No official condemnation has taken place; even the recommendation of the surveyors that she be condemned has been disregarded and repudiated; her register is intact; no actual sale or transfer has been made; there is no change of ownership, and in a short time she could leave the port, and I am at a loss to see how she is chargeable for duty.

Had the recommendation of the surveyors been followed out, and the condemnation ratified by the master and owner, and the vessel sold at auction and purchased by a citizen of the United States, I submit that no duty could be collected. The form or mode of sale can not affect the right to duty, and if under these circumstances the vessel is liable, duty may also be claimed whenever the owner of an American ship sells her at private sale to another citizen of the United States during the time she is in a Canadian port.

I am, etc.,

N. W. WHITE.

CANADA, PROVINCE OF NOVA SCOTIA, PORT OF SHELBURNE,
United States Consular Agency:

I, Nathaniel W. White, United States consular agent residing at the said port of Shelburne, do hereby certify that the foregoing letter is a just and true copy of the original on file in this consular agency, the same having been carefully examined by me and compared with the said original and found to agree therewith word for word and figure for figure.

Given under my hand and the seal of this consular agency at Shelburne, this 4th day of October, 1887.

[SEAL.]

N. W. WHITE,
United States Consular Agent.

[Inclosure 8.]

Mr. Johnson to Mr. White.

CUSTOMS DEPARTMENT, CANADA,
Ottawa, July 29, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of 16th instant, addressed to the minister of customs, respecting the payment of duty on the ship *Bridge-*

water, and regret to say that the minister is at present absent from Canada. I may, however, remind you that the owner has been advised over and over again as to the liability of this vessel to the payment of duty. I fail to see how any article of marketable value brought from any foreign country, offered for sale and actually sold, could by any possible construction of the law be exempt from the payment of duty, unless, indeed, it was an article which had been placed on the free list. The contention of the parties in this case has been so far from anything which is reasonable or legal as to place it outside of the ordinary transactions which are brought before this department.

If the parties were disposed to comply with the law, and make entry of the vessel and pay duty thereon, she would then be entirely at their disposal, to make what use of her they pleased in the way of refitting for sea or otherwise. It would then be a proper course of procedure to make an application to the department for refund of the duty paid, stating the circumstances and the reasons why they are entitled thereto; but to refuse absolutely, after having sold the ship in a Canadian port, to pay the duty provided by the tariff thereon, is an act which exposes them to all the difficulties and troubles of a seizure of the vessel. I can not regard the implied threat of the parties to present their case at Washington as of the slightest importance. Whatever amount of respect officials of this department of the government may have for the Government of the United States and their officials, it is nothing more than reasonable to say that on one side or the other is there any jurisdiction for the enforcement of customs law beyond the respective limits of the two countries.

I have the honor, etc.,

J. JOHNSON,
Commissioner.

[Inclosure 9.]

Mr. Wallus to Mr. White.

CUSTOMS DEPARTMENT, CANADA,
Ottawa, August 12, 1887.

SIR: Referring to the action of the collector of customs at Shelburne, by direction of this department, in seizing the ship *Bridgewater* because of the refusal of the owner to pay duty thereon as required by law, I beg to call your attention to the option which was given to the owner in this case by this department to pay the duty, and so comply with the strict requirements of the law, with the understanding that when the vessel was fully repaired and taken out of the Dominion an application would be received and considered for a return to such owner of the whole of such duty, or such part thereof, as might be considered equitable under the circumstances.

I can not conceive that this option has been fully understood, in view of the correspondence subsequent to the commissioner's letter giving the option, and would remind you that it is virtually only tantamount to the making of a temporary deposit to cover the duty which, had a Canadian purchased the vessel, would certainly have been exacted from him. It would seem to be a very simple way out of the difficulty to formally pay the duty, and while I can not give you a direct assurance that the same will be refunded, I feel justified in stating that the case is one which would be likely to receive the most favorable consideration of the honorable the treasury board, to whom the matter will be submitted if the commissioner's suggestions are adopted by the owner.

I have, etc.,

W. T. WALLUS,
Acting Commissioner.

[Inclosure 10.]

The statute under which it is alleged the Bridgewater was subject to duty.

Section 41, Chapter 12, 46 Vic.

The person entering any goods inwards shall deliver to the collector or other proper officer, an invoice of such goods, showing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed,

and in duplicate, containing the name of the importer, and, if imported by water, the name of the vessel and of the master, and of the place to which bound, and of the place, within the port, where the goods are to be unladen, and the description of the goods, and the marks and number and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

SEC. 60. Goods derelict, flotsam or wreck or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into Canada, shall be subject to the same duties and regulations as goods of the like kind imported are subject to.

[Inclosure 11.]

Protests of Captain Allen.

A.

CANADA, PROVINCE OF NOVA SCOTIA,
U. S. Consular Agency, Port of Shelburne :

Whereas the ship *Bridgewater*, of New York, bound from St. John, New Brunswick, to Penarth Roads, arrived at this port in a leaky condition, on the fifth day of April last past, and after the discharge and transshipment of her cargo of deals, the owner of said vessel employed mechanics to repair said ship and was engaged in the said work when the vessel was seized and taken possession of by W. Atwood, esq., custom-house officer at Shelburne, to wit, on the twenty-seventh day of July last past, necessitating an entire suspension of the work and repairs on said vessel and causing serious loss, detention, and inconvenience to the owner, and the incomplete work is being greatly deteriorated, and the ship itself lying in the stream is under the care of a person wholly incompetent and incapable to perform the duties assigned to him, and large quantities of water have been allowed to remain in the said ship, arising not only from leakage in her bottom, but in consequence of the heavy rains pouring through the open hatches, cabins, and store-rooms;

And whereas the said ship, with a large quantity of water in her hold and but lightly ballasted, is liable at the present season of the year, and during any gale of wind, to be tripped on her broadside and be filled with water pouring through the open ports and sink and become a complete wreck;

Now know all men by these presents, that on the day of the date hereof, before me, Nathaniel W. White, consular agent of the United States of America, at the said port of Shelburne, personally came and appeared John H. Allen, of New York, managing owner of said ship, and after stating the facts contained in the foregoing premises, hath protested, like as by these presents I, the said consular agent, at his special instance and request, do publicly and solemnly protest, against all and every person or persons whom it doth or may concern, and against the Government of the Dominion of Canada, and their officer, Warren W. Atwood, collector of customs at Shelburne aforesaid, for the seizure and detention of the said ship and for the injury, loss, and damage which has or may happen to the said ship, her tackle, apparel, and appurtenances and the stores and material on board, by reason thereof or of the careless and insufficient manner in which the said ship is held and provided for, claiming and demanding payment for all costs, damages, injuries, and expenses which may arise or have arisen and which may occur by reason thereof to the said vessel or her owner from those to whom the same of right may appertain.

In testimony whereof the said John H. Allen, managing owner of the said ship, hath hereunto subscribed his name, and I, the said consular agent, have hereto set my hand and affixed the seal of this consular agency, at Shelburne, this third day of September, A. D. 1887.

[SEAL.]

JOHN H. ALLEN.
N. W. WHITE,
U. S. Consular Agent.

B.

CANADA, PROVINCE OF NOVA SCOTIA,
Port of Shelburne, United States Consular Agency :

Take notice that Captain John H. Allen, managing owner of the U. S. *Bridgewater*, now lying in the port of Shelburne, under seizure at the instance of the minister of customs of the Dominion Government, in addition to the facts stated in the protest handed you on the third day of this present month, hereby also protests against the

said seizure and continued detention of the said ship on the further grounds that the contracts and engagements made by him for the repairs of the said ship have all been abrogated and determined by the said seizure, and the dry, favorable season and weather for the successful prosecution and completion of the said ship has now all but passed, and that the said work can not now be continued and finished under the same advantageous circumstances as it could have been at the time of the said seizure. That a summer voyage to Europe has been lost in consequence of said detention, and if any further delay is incurred in the release of said ship from the said seizure it will be impracticable to get her into such seaworthy condition as to enable her to reach a port having facilities for repairing the underwater part of a ship before the winter sets in. That the said owner having already been put to a very heavy loss by the perils of the sea and the unavoidable accident which compelled her to seek a refuge in the port of Shelburne, the loss of her voyage, and the larger expenses incurred for the repairs and the provision for all the disbursements hereafter necessary for the completion of said repairs, and other just dues and obligations, feels he should not now be called on "to formally pay over the duty claimed" as suggested by the commissioner of customs in the hope that it will be refunded, but a decision should at once be arrived at and the ship released from any such claim.

Dated at Shelburne this 5th day of September, A. D. 1887.

[SEAL.]

JOHN H. ALLEN.
N. W. WHITE,
U. S. Consular Agent.

C.

CANADA, PROVINCE OF NOVA SCOTIA,
U. S. Consular Agency.

To W. W. ATWOOD, Esq.,
Collector of Customs of and for Shelburne:

Take notice that Captain John H. Allen, managing owner of the U. S. ship *Bridge-water*, having under the late instructions of the Hon. A. W. McLelan, acting minister of customs, taken charge of the ship, brought her to the wharf, completed the repairs, and ballasted her, and equipped her for sea, and being desirous to obtain a clearance and leave the port, you have prevented him from attaching the wheel to the rudder and refused him a clearance, and so hindered and prevented him from going to sea, and have also on several occasions prevented him from hoisting his flag on board of said ship, he, the said John H. Allen, hereby gives you notice that he hereby protests against these acts and holds you responsible for all costs, damages, and losses now incurred or which he may hereafter incur in consequence of this detention, and also for all losses and damages which he has sustained and been put to by the original seizure of the said American ship *Bridge-water*.

Dated at Shelburne this 30th day of September, A. D. 1887.

Before me.
[SEAL.]

JOHN H. ALLEN.
N. W. WHITE,
Notary Public.

CANADA, PROVINCE OF NOVA SCOTIA,
Port of Shelburne, United States Consular Agency:

I, Nathaniel W. White, United States consular agent, residing at the said port of Shelburne, do hereby certify that the foregoing protests marked respectively A, B, and C, hereto annexed, are true and correct copies of the originals on file at this consular agency, the same having been carefully examined by me and compared with the said originals and found to agree therewith word for word and figure for figure.

Given under my hand and seal of this consular agency, this 4th day of October, 1887.

[SEAL.]

N. W. WHITE,
United States Consular Agent.

[Inclosure 12.]

Mr. Allen to Mr. Atwood.

SHELBURNE, September 13, 1887.

SIR: When you seized and took possession of ship *Bridgewater* the doors of the forward house and windows were unhung and under repair. There were also openings in the decks and sides of the ship, as you are aware.

Having regard to the lateness of the season and the probability that the ship will be forced to winter here, and the damage already sustained and likely to be further sustained by weather and other causes, beg to notify you that I am prepared to put mechanics on board at once and stay the damages in these particulars, paying the cost of same myself, but without prejudice to my rights in the premises.

An early reply will oblige,

Yours, very respectfully,

JNO. H. ALLEN.

[Inclosure 13.]

Mr. White to Mr. McLelan.

[Telegram.]

SHELBURNE, September 14, 1887.

Allen will not proceed with general repairs unless *Bridgewater* released; been here four weeks, and about leaving for New York; protests show necessity for prompt decision; when may we expect it?

N. W. WHITE,
United States Consular Agent.

[Inclosure 14.]

Mr. Thompson to Mr. White.

[Telegram.]

Received at Shelburne September 16, 1887.
Dated, Ottawa.

The matter not in my department. Have seen McLelan, who is acting for minister of customs. He has telegraphed decision.

J. S. D. THOMPSON,
Minister of Justice.

[Inclosure 15.]

Mr. McLelan to Mr. White.

[Telegram.]

Received at Shelburne September 16, 1887.

Allen can repair and take vessel away. If he requires Canadian register will have to pay duty.

A. W. MCLELAN,
Acting Minister of Customs, Ottawa.

[Inclosure 16.]

Mr. Atwood to Mr. Allen.

CUSTOM-HOUSE, Shelburne, September 22, 1887.

SIR: I have to inform you that the acting commissioner of customs authorizes the release of the ship *Bridgewater* on condition that she takes a clearance to a foreign port and leaves the country on completion of the repairs, after first paying all expenses incurred in connection with the seizure, and after you have formally with-

drawn the protest made and given a written abandonment of all claims upon the government or seizing officer on account of seizure.

You will please let me know whether these conditions will be complied with, and I will give you an account of expenses.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 17.]

Mr. Atwood to Mr. Allen.

CUSTOM-HOUSE,
Shelburne, Nova Scotia, October 5, 1887.

SIR: I have to notify you that the ship *Bridgewater* is still under seizure and a clearance will not be granted until the terms of decision are complied with, and that any attempt to remove her without clearance is under the law a felony.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 18.]

Mr. Atwood to Mr. Allen.

CUSTOM-HOUSE,
Shelburne, Nova Scotia, October 14, 1887.

SIR: I have received instructions this day to release the ship *Bridgewater*, now under seizure.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 19.]

Mr. Allen to Mr. Atwood.

SHELburne, October 15, 1887.

SIR: I received late last evening your note informing me you were in receipt of instructions to release the ship *Bridgewater*.

Having regard to all the circumstances familiar to you as myself, permit me to suggest that you release her at an early date as possible, taking from her the emblem of seizure, signifying at the same time your intentions respecting my application for clearance for a port in the Dominion of Canada, without which, as the ship is chartered, the release will be of no use.

Very respectfully,

JOHN H. ALLEN.

[Inclosure 20.]

Marine protest of Captain Allen.

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Saint John, New Brunswick, Dominion of Canada:

By this public instrument of declaration and protest, be it known and made manifest unto all whom these presents shall come or may concern, That on the twenty-fourth day of November, one thousand eight hundred and eighty-seven, before me, James Murray, consul of the United States of America for Saint John, New Brunswick, Dominion of Canada, and the dependencies thereof, personally came and appeared John H. Allen, master of the ship or vessel called the *Bridgewater*, of New York, of the burden of 1,482 tons or thereabouts, then lying in this port of Saint John, New Brunswick, laden with ballast cargo, who duly noted and entered with

me, the said consul, his protest, for the uses and purposes hereafter mentioned; and now on this day, to wit, the day of the date hereof, before me, the said consul, again comes the said John H. Allen and requires me to extend this protest, and together with the said John H. Allen also comes Andrew Perier, seaman, and Daniel Langwell, carpenter, of and belonging to the said ship, all of whom by me being duly sworn on the Holy Evangelist of Almighty God, and severally, voluntarily, freely, and solemnly declare, depose, and state as follows: That is to say,

That these appearers on the twenty-first day of October, one thousand eight hundred and eighty-seven, in their capacities aforesaid, sailed in and with the said ship from the port of Shelburne, Nova Scotia, in ballast and bound to the port of Bersimis, River Saint Lawrence, Quebec, and that the said ship was then tight, staunch, and strong, had her ballast well and carefully trimmed and secured; had her hatches well corked and covered; was well and sufficiently manned, victualled, and furnished with all things needful and necessary for a vessel in the merchant service, and particularly for the voyage she was about to undertake; that the next day, the 22d of October, crew refused to turn to, assigning as a reason, among others, the advanced season for entering the Gulf of St. Lawrence; sent on shore for the United States consul, who, after much persuasion, induced 6 men to go to work; put the rest in irons. With assistance from shore, got the ship under way and proceeded toward Sound Point. About 1 p. m., when about half way down the harbor, a sudden squall of great force struck the ship, heading her off; there being neither room to tack or wear, let go the anchor, which, however, would not hold, and ship drifted on the beach; took in all sail and kept the extra men on board. 8 p. m., gale moderating; midnight nearly calm; the 7 men which were put in irons turned to at midnight.

October 23.—At the highest point of the tide took warp attached to spare anchor to the main capstan which was fully manned, and with 20 men at windlass put the heaviest strain on both; ship started four or five feet, the tide being not as high by one foot as the day tide; ship perfectly still and in same position as at a wharf. Noon, strong breeze from northwest. 3 p. m., made another attempt to heave ship ahead, but the tide being a poor one met with no success. Midnight, moderate.

October 24.—Commences moderate with wind going to NE., glass rising. 3.30 a. m., high water but poor tide; hove cable taut. 8 a. m., wind south and increasing; noon, light rains, wind southwest. 1 p. m., 8 men from shore came on board to assist. 1 p. m., tide making fast and every appearance of plenty of water, hoisted spanker main-topmast and fore-topmast staysails. 2 p. m., ship swung rapidly, bow paying off shore, but the stern hanging on the ground prevented her forging ahead, in consequence of which the bow payed off and wind veering at same time to southwest and blowing with great force ship took the ground with starboard side to the beach; 8 men assisting from shore. 6 p. m., wind W.S.W. and blowing almost the force of a hurricane. Ship quiet and doing no harm. Midnight, more moderate.

October 25.—Commences moderate, inclining to calm. 3.30 a. m., high water, but the tide did not rise to its usual level; ship did not float, in consequence of which made no attempt to heave her off. 3.45 p. m., bow floated, hove ship's head well off shore but stern hung; wind quite strong and directly on shore. James Deady deserted the ship last night. Midnight, calm; ship lying easy.

October 26.—Commences calm. 4 p. m., tide ceased rising; water did not reach its ordinary level; made no attempt to move ship. 8 a. m., moderate breeze from the north; made preparations to get ship off, hoping for good tide and northerly wind as glass indicates. 4 p. m., manned capstan and windlass; ship started and soon swung to her anchor; kedged her to middle of harbor, where she now lies on 7 fathoms of water. Wind light from NW. The day ends with moderate winds from N.N.E.

October 27.—Commences clear and moderate from N.N.E. Heavy frost. 6 a. m., hove up the anchor and took in the kedge, dropping the bower under foot. 8 a. m., light breeze from the north; weighed anchor and proceeded to sea. 9 a. m., passed Sand Point; noon, ship out of the sound. 4 p. m., calm. 8 p. m., calm; 11 p. m. Cape Roseway light bearing north, distant 15 miles.

October 28.—Commences with light breeze from E.S.E. Ship heading south, making 2½ knots. 8 a. m., same weather. Crew employed overhauling the gear and reeving some new. Noon, same. 4 p. m., the same, ship heading S. b. W. 8 p. m., tacked in-shore. Ship heading NE., making 3 knots. Midnight, moderate, making 2 knots. Cape Roseway distant about 15 miles.

Course till 8 p. m., south.

Course from 8 p. m. to 8 a. m., N. b. W.

October 29.—Moderate inclining to calm. 8 a. m., dead calm; noon, light wind from NE., slight showers. 4 p. m., calm; crew employed overhauling the running rigging. 8 p. m., dead calm. Midnight, faint breeze, ship close hauled.

Course, N. b. W.

October 30.—Commences with light rain, wind almost calm. 4 a. m., wore ship to S.E.; considerable fog and drizzling rain. 8 a. m., same weather. Judge ship to be south of Little Hope Light House, 12 miles distant say bearing N.N.E. Noon, thick;

no observation, wind very moderate. 4 p. m., the same. Brigantine in company. Midnight, light breeze from the north. Sky overcast.

Course from 4 a. m., S. SE.

October 31.—Throughout the day moderate wind from N. NW. 8 p. m., judge ship off Sambro. Midnight, light air from NW.; all sails set.

Course, E. b. N., N. W.

November 1.—Commences with light breeze from N. NW. All lightsails set. 8 a. m., more moderate. Noon, the same. Ends with strong breeze from NE.

November 2.—Throughout this day strong to moderate breezes from NE. Judge Cape Canso to bear N. b. E., distant 60 miles.

November 3.—Commences with moderate winds inclining to calm. 8 a. m., light wind from the south. All sail set. P. m., several ships in sight passing out of the Gulf. Midnight, Scutari Light in sight bearing N. NE., distant 15 miles.

November 4.—Midnight till 4 a. m., calm; thence till 8 a. m., light airs from the south. *Sidney*, pilot schooner, spoke us. 10 a. m., passed Scutana. Strong breeze from south. All sails set; the only fair wind we have had since leaving Shelburne, Nova Scotia, 4 p. m., passed Cape North. 10.15, passed Bird Rock, 12½ hours from Scutani, giving her 11½ knots. From 10 p. m. till midnight, wind gradually hauling to NW. Sail being reduced.

November 5.—Commences with strong gale from N. NW. Ship under lower topsails courses, and spanker. Judge Bird Rock to bear N. NE., distant 25 miles. Noon, strong gale; ship under lower topsails, foretopmast staysail, and storm spanker, making an E. NE. drift. 5 p. m., wore ship to westward, weather intensely cold; ice making fast and crew not very nimble.

November 6.—Midnight gale moderating. Wind inclining to NE. direction, 8 a. m., more moderate; wind backing to NW. Wore ship to NE. and set the courses. P. m. south point of Anticosti in sight; 5 p. m. wore ship to NW. Wind hauling to N. NE.; 10 p. m., the light on last point of Anticosti in sight, bearing N. NE., distant 12 miles.

November 7.—The gale moderating. Set the upper topsails. Wind drawing easterly and thick with snow squalls; 8 p. m. off south point of Anticosti; wind fresh from east; all sails set; 2.30 p. m., Southwest Point Light-House in sight till midnight; moderate winds, thick and hazy.

November 8.—Moderate, inclining to calm; very hazy on the horizon; 8 a. m. the weather clearing, found ship close up to Fame Point; 10 a. m. wind came from NW., soon increasing to strong breeze. Took in all light sails and stood off-shore. Noon, strong gales, with hard squalls of great force. P. m., the north point of Anticosti in sight ahead, being in the narrow waters with land in all directions, were forced to carry sail in order to keep ship in position. 4 p. m. the north end of Anticosti being under the lee where ship would not weather, prepared to wear to westward, but in taking in the courses split them badly, including upper fore topsail and foretopmast staysail and later blew away the inner set; 5 p. m. the ship drifting towards SW. Point Light-House, and gale blowing with great force; ship under two lower topsails only, and apprehensive that these would not stand the force of the gale, in the event of which ship would be beyond control and doubtless driven ashore, kept her away before the gale, continuing so till midnight, the gale blowing with force of a hurricane, bitterly cold, with constant flurries of snow.

November 9.—Commences with furious gale from NW., ship scudding under main and fore-top sails, deck covered with snow. 8.15, passed Bird Rock; noon, same weather, gale of same force thick with haze and snow and hail squalls. 2 p. m., passed Cape North, ship having made in 20 hours under two lower topsails 225 knots, an indication of the force of the gale. 10 p. m., passed Scataria, hauling ship to wind under the land. Midnight less wind. Ship heading W. SW. under two topsails and spanker. Setting at midnight maintopmast staysail, the watch employed clearing snow from the deck.

November 10.—Strong gale from NW., but lessening, ship heading W. SW., making 3 points leeway. Employed during the day bending sails in lieu of those blown away. Weather cold, men aloft using mittens on their hands, which as might be expected prevented progress in repairing damages. Midnight, less wind and sea going down. Judge Scartari distant 55 miles.

November 11.—Commences moderate, inclining to calm. Sea heavy but going down; by noon had sails in place of those lost ready for setting, reeving off several coils new manilla for sail gear. Having regard to lateness of season and difficulty of getting up the gulf, with the certainty that ship could not get her cargo and return before close of navigation, determined to abandon voyage. P. m., took light wind from NE., which soon increased to a gale. Midnight, judge west end Sable Island to bear SE. by S., distant 40 miles.

November 12.—Midnight, less wind, veering to S. SW. Ship under lower topsails and course; 8 a. m., light rains and squally. Noon, judge Sambro to bear N. NW., distant 35 miles; 4 p. m., wind W. SW., ship close hauled, heading NW., making 4 knots; 5 p. m., nearly calm, wind NW.; wore ship to SW.; midnight, calm, heavy sea.

November 13.—Moderate to calm throughout this day. Heavy sea running from NW.; judge Sambro to bear north, distant 30 miles.

November 14.—Moderate wind from NW. Ship making but little headway; p. m., tacked inshore; midnight, judge ship about 20 miles south of Lunenburg; no observation.

November 15.—Commences with more wind and unsettled weather; 8 p. m., moderate south wind; noon, thick and squally; 4 p. m., strong gale, ship under topsails; midnight, made Gull Rock light, and finding ship nearer shore than the light indicated, and being apprehensive she would not "claw" off, run into Rugged Island Sound and came to anchor with both bowers and 45 fathoms cable. Hauled sails, Gull Light Rock bearing south, distant 1 mile; kept sea-watch; gale moderate.

November 16.—Wind veering to west and quite moderate; scant, however, to make a start; sea quite heavy; p. m., lifted anchors, dropping ship further to NW. in order to get more distance between ship and the south breaker; employed some fishermen to assist; made signal for a tug, but word was sent that the Lockport tug had gone to Halifax; p. m., wind blowing almost directly inward; ends with moderating weather.

November 17.—The sea has been comparatively smooth during this day. Still no chance to get away. P. m., the crew came aft, requesting to know what was to be done, evidently meaning the ship should be abandoned. They wanted life-boat No. 1 put over the side; however, not to quarrel with them, a compromise was made by putting her on her keel on the round-house. Some time later in the day all hands refused duty, insisting that the master land them. A. m., the cook and stewardess, wife of the former, who had permission to go on shore last evening, on plausible statements to the master, have not returned, and state they will not; their effects are on board. The master and officers are caring for the ship. Wind SW. to W. and moderate.

November 18.—At 8 a. m. it blew quite fresh from E. SE.; considerable sea on. The crew have during the day been aft, frequently threatening that if something was not given them to eat there would be trouble. They were answered that if they would go to work one of them could go to the galley and cook for them. The proposition was refused. P. m., the crew threatened to hoist out the life-boat; prepared the cutlasses and firearms, as it looks serious. 3 p. m., the crew forcibly took possession of a boat alongside from shore, all drawing sheath knives, declaring the heart would be cut out of the first man who stood in their way; only four, however, could get in her, carrying Kelly, McDonald, Sheehan.

November 18.—Continued blowing fresh, and considerable sea; ship keeping well off the reef. By 8 p. m. the balance of the crew had signified a wish to go to work on condition they would not be prosecuted for their insubordination. Considering that the prime object of the ship just now is her safety, the promise was given. Received fresh water, wood, and beef, also small quantity naval stores. The day ends with fine weather. Men from shore are on board, hoping for a chance to get away in the morning.

November 19.—Midnight, calm. 4 a. m., light air from NE., called all hands, and by 7 o'clock a. m. had the port anchor and starboard one short; set sail and proceeded to sea. On sighting the starboard bower, the largest with iron stock, found stock and one fluke gone. The port one is wooden stocked and has done more service. 10 a. m., off Cape Roseway, and passed Seal Island at 2.30. Wind fresh from southeast. 5 p. m. hard gale; put ship under lower topsails. 9 p. m. made Bryers Islands light, passing it at 10 p. m. Ship making time; passed Cape Roseway 11 knots.

November 20.—One o'clock a. m. it set in thick fog, dense as tun. Hove ship to on port tack, half distance between Bryers Island and Musquash; fog continuing throughout the day. Average depth of water, 70 fathoms. Twice filled away on our course, but abandoned it after a short time.

November 21.—The day commences with thick fog. 1 a. m. heard fog-signal, but were unable to locate it. 4 a. m. found the ship close to land; dropped anchor. Daylight found we were near New River, Mace's Bay, a drift so extraordinary as to deserve mention; ship being near the shore on the kedge, and warped off shore. 3 p. m. got under way, passing Lepreaux at 7 p. m., and off Musquash at midnight.

November 22.—4 a. m. got under way, with a light breeze from NW., and proceeded down Mace's Bay and toward Saint John, New Brunswick; noon took a pilot. 2 p. m. took a tug-boat, and at 4 p. m. moored ship at Carleton, New Brunswick, port of Saint John.

And these said appearers upon their oaths aforesaid, do further declare and say that during the said voyage they, together with the others of the ship's company, used their utmost endeavors to preserve the said ship from all manner of loss, damage, or injury.

Wherefore the said John H. Allen, master, has protested, as by these presents I, the said consul, at his special instance and request, do solemnly and publicly protest, against all and every person and persons whom it doth or may concern, and against

the winds and waves and billows of the seas, and against all and every accident, matter, and thing had and met with as aforesaid, whereby and by reason whereof the said ship already has or hereafter shall appear to have suffered or sustained damage or injury; and do declare that all losses, damages, costs, charges, and expenses that have happened to the said ship are and ought to be borne by those to whom the same may by right appertain by way of average or otherwise, the same having occurred as before mentioned, and not by or through the insufficiency of said ship, her tackle or apparel, or default or neglect of this appearer, his officers, or any of his mariners.

Thus done and protested in the port of Saint John, New Brunswick, Dominion of Canada, this 19th day of December, in the year of our Lord one thousand eight hundred and eighty-seven.

JOHN H. ALLEN, *Master*.
ANDREW PERIER, *Seaman*.
DANIEL LANGWELL, *Carpenter*.

In testimony whereof these appearers have hereunto subscribed their name, and I, the said consul, have granted to the said master this public instrument, under my hand and the seal of this consulate, to serve and avail him and all others whom it doth or may concern as need and occasion may require.

[SEAL.]

JAMES MURRAY,
United States Consul, St. John, N. B.

UNITED STATES CONSULATE,
Saint John, N. B., December 22, 1887.

I hereby declare and certify that the within extended protest is a true copy of the original on file in this office.

[SEAL.]

J. MURRAY,
United States Consul, St. John, N. B.

[Inclosure 21.]

Marine note of protest.

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Saint John, New Brunswick:

On this twenty-fourth day of November, in the year of our Lord eighteen hundred and eighty-seven, before me, James Murray, consul of the United States of America for Saint John, N. B., and the dependencies thereof, personally appeared John H. Allen, master of the ship or vessel called the *Bridgewater*, of New York, of the burden of 1,482.44 tons, or thereabouts, and declared that on the 22nd day of October last past he sailed in and with the said ship from the port of Shelburne, N. S., laden with ballast, and arrived in the said ship at Saint John, N. B., on the 22d day of November, and having experienced boisterous and tempestuous weather on the voyage, hereby enters this note of protest accordingly, to serve and avail him hereafter if found necessary.

JNO. H. ALLEN,
Master.

Attested:

JAS. MURRAY,
Consul.

[Inclosure 22.]

Register of the Bridgewater.

[Register No. 107. Permanent. Official number; numerals 2593; letters J. F. H. P.]

Copy of certificate of registry. In pursuance of chapter one, title XLVIII, "regulation of commerce and navigation," Revised Statutes of the United States.

Mary Warren Allen, of Brooklyn, State of New York, having taken and subscribed the oath required by law, and having sworn that he is a citizen of the United States and the only owner of the vessel called the *Bridgewater*, of New York, whereof Mathew Adams is at present master, and is a citizen of the United States; and that said vessel

was built in the year 1855, at Philadelphia, Penn., as appears by T. R. No. 256, issued at New York Aug. 13, 1873, surrd. to Am. consul at Hull, Eng., July 15, 1878, authorized to be registered anew per telegram of this date from Sec. of Treas., change of ownership and district, and said register having certified that the said vessel has 3 decks and 3 masts, and that her length is 189 and 8 tenths feet, her breadth 41 feet and 5 tenths, her depth 28 feet and 3 tenths, her height — feet and — tenths; that she measures fifteen hundred fifty-six tons and 83 hundredths viz:

	Tons.	100ths.
Capacity under tonnage deck	1,035	78
Capacity between decks above tonnage deck		
Capacity of inclosures on the upper deck, viz	521	5
Gross tonnage	1,556	83

Deductions under section 4153, Revised Statutes, as amended by act of August 5, 1882, 74.39; total deduction, 74.39; net tonnage, 1,482.44.

The following described spaces and no others have been omitted, viz:

and that she is a ship, has a figure-head and a square stern; and the said Mary Warren Allen having agreed to the description and admeasurement above specified, and sufficient security having been given, according to law, said vessel has been duly registered at the port of New York.

Given under my hand and seal at the port of New York, this third day of November, in the year one thousand eight hundred and eighty-three.

[SEAL OF THE UNITED STATES TREASURY.]

R. WYNKOOP,
Deputy Collector of Customs.
L. R. MAY,
For Naval Officer.
W. P. TITCOMB,
Assistant Register.

No. 5.

Mr. Bayard to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, June 22, 1888.

SIR: I have the honor to bring to the attention of Her Majesty's Government the case of the American ship *Bridgewater*, which was seized by the customs authorities at Shelburne, Nova Scotia, on the 27th of July, 1887, and detained in custody until the 15th of the following October, a period of eighty-one days, when she was unconditionally released.

The facts in the case are that the *Bridgewater* cleared from St. John, New Brunswick, on the 1st of April, 1887, with a cargo of deals for Penarth Roads, Great Britain. On the 5th of the same month, having been disabled by a storm and extensively damaged, she put into Shelburne, Nova Scotia, for repairs, was surveyed and condemned and her cargo discharged. In the mean time, however, Capt. John H. Allen, the agent for Mary Warren Allen, the owner of the vessel, having arrived, refused to accept the survey of condemnation and advertised the vessel for sale.

On the 8th of June the ship was put up at public sale, but as no bid was made, or any that was acceptable, she was bid in by Captain Allen as agent of the owner; and having been thus unable to effect a sale of the ship, he proceeded to repair her.

The repairs were proceeding, and, as is alleged, were nearly completed when, on the 27th of July, the vessel was seized by Collector Atwood, of Shelburne, for non-payment of duty as for goods entered and sold under the Dominion statute, 46 Victoria, Cap. 12, sections 41 and 60, which read as follows:

41. The person entering any goods inwards shall deliver to the collector or other proper officer an invoice of such goods showing the place and date of purchase, and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed; and in duplicate, containing the name of the importer, and, if imported by water, the name of the vessel and the master, and of the place to which bound, and of the place within the port where the goods are to be unladen, and the description of the goods, and the marks and number and contents of the package, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

60. Goods derelict, flotsam, jetsam, or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into Canada shall be subject to the same duties and regulation as goods of the like kind imported are subject to.

It is unnecessary for me to give a construction to these provisions in order to show that they could have no relation to the case of the *Bridge-water*, a vessel compelled to enter in distress and undergo repairs by her owner, out of whose hands she had never passed up to the time of her seizure for non-payment of duties, because that such is the clear opinion of the Canadian authorities unmistakably appears.

Captain Allen formally protested against the seizure of the ship, but without avail until the 16th of September, when the consul of the United States at Shelburne received from the acting minister of customs at Ottawa the following telegram:

Allen can repair and take vessel away. If he requires Canadian register, will have to pay duty.

A. W. MCLELAN,
Acting Minister of Customs.

On the 22d of September, Collector Atwood offered to release the vessel on condition that her owner abandon all claim against the Canadian Government or its officials for the seizure and detention. This Captain Allen, acting for the owner, refused to do.

The vessel was not released till the 15th of October, and then unconditionally. No Canadian register was ever applied for or issued, and she sailed from Shelburne under her American papers.

The owner has since presented a claim for damages, by reason of the wrongful seizure and detention of the ship, amounting to something over \$20,000, to the Government at Ottawa, but has failed to secure its recognition, and Captain Allen has been informed by the minister of customs that his principal has no redress in the courts against any of the officers of the Crown.

Should the facts as herein stated be ascertained to be correct (and there appears to be little room for doubt) it is hoped that the justice of the claim now presented will be recognized and proper compensation awarded.

I have not thought it necessary to enter into any elaborate argument in regard to the law of the case, as it appears to be admitted that there was no warrant for the seizure and detention of the *Bridge-water*, under the customs laws of Canada, and since no Government has more readily accorded or more consistently contended for the rights of vessels in distress to seek shelter and repairs than that of Her Majesty.

I have, etc.,

T. F. BAYARD.

No. 6.

Mr. Edwardes to Mr. Bayard.

WASHINGTON, June 25, 1888. (Received June 26.)

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant relative to the case of the American ship *Bridgewater*, and to inform you that I have lost no time in forwarding the same to Her Majesty's principal secretary of state for foreign affairs.

I have the honor, etc.,

H. G. EDWARDES.

No. 7.

Mr. Bayard to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, November 23, 1888.

SIR: On the 22d of June last, I had the honor to address a note to Mr. Edwardes, chargé d'affaires *ad interim* of the British legation, touching the case of the American ship *Bridgewater*, the circumstances of which were fully detailed in that communication. On the 25th of the same month a note was received from Mr. Edwardes, in which he informed me that he had transmitted my note to his Government. Since that time no further communication in regard to the case has been received.

The telegrams of the Canadian officials referred to in my note seemed so clearly to admit the irregularity of the proceedings against the *Bridgewater*, and the principles of protection to disabled merchantmen, which were involved, were so important that it was hoped the Government of Her Majesty would concur with that of the United States in the opinion that a satisfactory adjustment of the claim between the two Governments should speedily be reached. But as this Department has failed as yet to receive any reply to its representations, I would be obliged to you if you would bring the matter again to the attention of Her Majesty's Government, and in so doing communicate an expression of the hope of this Government that a favorable answer may soon be returned.

I have, etc.,

T. F. BAYARD.

No. 8.

Mr. Herbert to Mr. Bayard.

WASHINGTON, November 24, 1888. (Received Nov. 26.)

SIR: With reference to your note of yesterday's date, asking for an early settlement of the *Bridgewater* case, I have the honor to inform you that I telegraphed to Her Majesty's principal secretary of state for foreign affairs, in the sense of your above mentioned note, and

have received a reply stating that the owner of the *Bridgewater*, before presenting the claim, commenced an action at law which is still pending, and that the Canadian government is unable to express an opinion on the claim until the settlement of the case in the law courts.

I have, etc.,

ARTHUR HERBERT.

No. 9.

Mr. Allen to Mr. Bayard.

IN RE BRIDGEWATER.

WASHINGTON, D. C., *January 19, 1889.*

SIR: Referring to the communications from the British Government in respect to this matter, received by the State Department November 26, but made known to me yesterday only, I beg to recall the Department's attention to its salient features as they appear in the documents filed in the State Department.

First. It is not an accurate statement, that which the Canadian authorities have persistently advanced, viz, that the owner of the *Bridgewater* commenced an action at law against the Government of Canada. The owner, it is true, went to Ottawa, made an application to the minister of customs for his permission to take the necessary steps (without which, so he was advised, no progress could be made), to the end that the cause could be tried in the exchequer court, in which event the Government itself would be the actual defendant; but the application met with prompt and unqualified refusal.

Second. It is true an action was commenced in the local court in Nova Scotia against the seizing officer, but it was abandoned, as the Canadian authorities are well aware, on May 26, 1888, on receipt of the official letter of that date stating that "the claimant can not recover against the seizing officers of the Crown for the damages sustained in consequence of the seizure."

Third. The owner had at that date spent ten months in pleading for restoration of the ship and suing for the losses the seizure entailed, and it is respectfully urged that it is quite out of character to contend, as the Canadian Government does contend, that in face of such foreordained decree the claimant should be made to take his cause to the courts, together with the costs attending it.

Fourth. When the Government armed the *Bridgewater* with a navigating register it undertook the obvious duty of protecting it, just as it would, and does, an American citizen carrying in his pocket a duly-vised passport, who, without cause, is thrown into a foreign dungeon.

Fifth. The consul-general at Halifax instructed the consul at Shelburne that the state department required the ship's navigating papers for scrutiny. They were sent, and eventually returned to the ship. This took place long before the ship's release. The fact of returning them was an admission of their legality and complete sufficiency the purposes which took the ship to a Canadian port; yet the Government did nothing whatever toward effecting a release.

Sixth. The Canadian pretense is that the *Bridgewater* was an importation into the Dominion of Canada of a piece of merchandise nondescript in quality, and therefore subject to a duty at the rate of 25 per cent., an

assumption which, if contended for by the Government of the United States against a British registered ship, would, in the language of a leading New York daily paper, "set the British foreign office afire." This is all that there is to refer to the courts, a question which, with all respect, I should say is not for the Canadian courts to determine, for that would be an admission on the part of the Government of the United States that a foreign power can not only nullify our navigation register laws (an assumption of surveillance over the affairs of another people that, if made to a power even like Hayti, would be instantly rejected), but that Canada, a dependency, can do the self-same thing and at the same time set at defiance those commercial treaty laws subsisting between the United States and Great Britain, and which she has, with her large mercantile marine, availed herself of in all our ports for more than fifty years past.

I would, in conclusion, respectfully remind the Department that the owner of the *Bridgewater* comes not to the Government as a suppliant. If a duty rests upon a citizen to his Government, and that duty has been fulfilled, equally does a duty rest upon the Government to the citizen in time of need. This is precisely our case. We ask from the Government that measure of protection which we through life have been paying for. In other words, it is one of those cases, occurring so seldom under modern civilization, where the value of citizenship and nationality of property may be accurately determined.

I am, etc.,

JNO. H. ALLEN.

No. 10.

Mr. Allen to Mr. Bayard.

WASHINGTON, January 19, 1889. (Received Jan. 21.)

SIR: The paper herewith I beg to attach to my letter of even date, to be filed with the State Department.

Respectfully, etc.,

JOHN H. ALLEN.

[Inclosure.]

Addenda to Mr. Allen's letter, dated Washington, January 19, 1889.

The Canadian authorities contend that the *Bridgewater* was sold in a Canadian port, and by that act was subject to a duty of 25 per cent. on the selling price, or, alternatively, confiscation. But admitting she was sold, which, however, was not the case, that would not change the position a particle. There is no law in Canada subjecting an American ship, if sold there, to the payment of 25 per cent. duty or any other per cent. of duty. This was pointed out to the Canadian authorities before they made the seizure and the owner was flippantly told they were "acting under an order in council;" yet the collector at the time quoted the statute he professed to be acting under.

If an American ship is sold in Canada or out of it to a Canadian, he must before he can complete his Canadian registry pay to his Government 10 per cent. on the purchase price of his ship, but obviously the moment the ship was billed to the Canadian owner it would cease to be American. This is the extent of the Canadian law touching the duty on American ships when sold in Canada.

It is not in the power of Canada, it is respectfully urged, to enact such a law as she professes to have been applying to American shipowners for twenty-one years, at least not till she abrogates the commercial treaties now subsisting between the United States and Great Britain, which especially provides for this very case, and to which Canada, as a dependency of the Crown, is subject.

J. H. A.

No. 11.

Mr. Bauard to Mr. Phelps

No. 1049.]

DEPARTMENT OF STATE,
Washington, January 23, 1889.

SIR: On the 22d of June last I addressed a note to Mr. Edwardes, chargé d'affaires *ad interim* of Her Britannic Majesty at this capital, in relation to the case of the American ship *Bridgewater*, which had been wrongfully seized and held by Canadian customs officials at Shelburne, Nova Scotia, for payment of customs duties to which it has been decided by the Canadian Government that the vessel in question was not justly subject. Copy of that note is herewith inclosed for your information.

On the 23d of November last, no reply having been received other than a simple acknowledgment by Mr. Edwardes and his statement that he had transmitted the note to his Government, I addressed Mr. Herbert, then and now chargé d'affaires *ad interim* of Her Majesty's legation, again inviting attention to the case. Copy of this latter note is also inclosed.

On the 24th of November Mr. Herbert replied that immediately upon the reception of my note of the 23d instant he had telegraphed to Her Majesty's principal secretary of state for foreign affairs in the sense of my note, and had received a reply stating that the owner of the *Bridgewater*, before presenting his claim to this Government, had commenced an action at law, which was still pending, and that the Canadian Government was unable to express an opinion on the claim until the settlement of the case in the law courts. Copy of this note is inclosed.

It is true that the owner of the *Bridgewater* instituted a suit in the Canadian courts to recover damages for the wrongful seizure and detention of the vessel. But on the 24th of May, 1888, her agent was informed by the Canadian minister of customs that he had received from the minister of justice an opinion that the claimant could "not recover against any officer of the Crown for damages sustained in consequence of the seizure." Copy of the letter of the minister of customs is herewith inclosed.

I am informed by the claimant that her agent also endeavored to obtain permission to bring a suit in the exchequer court, but his application was not entertained. That such a suit, if brought, would have been futile seems more than probable. And in this relation I inclose herewith a copy of a letter of the 30th of April, 1888 (see inclosure No. 1) from the claimant's legal counsel, which appears to contain a lucid statement of the law on the subject.

It was not until after failure to obtain a remedy against the government of Canada in the exchequer court and the official opinion of the minister of justice above referred to that no recovery could be had in any court against any officer of the Crown, that the claimant invoked the

intervention of her Government. Acting upon this declaration of the minister of justice, the owner's agent, Mr. John H. Allen, directed his attorneys to discontinue the suit so begun in the Canadian courts, and presented a petition to this Department. This petition bears date the 1st day of June, 1888, more than ten months posterior to date of the seizure of the vessel and nearly eight months after her unconditional discharge. The intervening time had been spent in fruitless endeavors to obtain redress from the Canadian government, and it was finally ascertained that redress through the Canadian law courts or from that government was not to be had.

As the case is now presented a serious injury has been inflicted upon a citizen of the United States by the authorities of the Dominion of Canada, for which the head of their department of justice has declared no remedy is afforded by their laws. To obviate such an evident failure of justice appeal is now made by the Government of the injured citizen to the plenary power of the Government under whose jurisdiction and official agency the injury was wrongfully inflicted.

You are therefore instructed to bring the case as herein-above stated to the attention of Her Majesty's Government, in order that just compensation may be rendered to the claimant.

I am, etc.,

T. F. BAYARD.

No. 12.

Mrs. Allen to Mr. Bayard.

Brooklyn, N. Y. January 23, 1889. (Received January 29.)

SIR: At the direction of Mr. John H. Allen, now temporarily absent in the South, I beg to hand you the accompanying amended statement of claim, to be filed in the State Department with the papers relating to the seizure of the *Bridgewater*, requesting that the previous one filed may be returned to me.

Very respectfully,

MARY W. ALLEN.

[Inclosure.]

Statement of claim of the petitioner Mary Warren Allen, of 134 Macon street, Brooklyn, N. Y., against the Government of the Dominion of Canada.

For seizure and detention of the ship <i>Bridgewater</i> , of New York, 1,557 tons gross register, from July 27, 1887, till October 15, 1887, both inclusive, at 8 cents per ton per diem	\$10,089.48
Injury to stagings, ropes, running rigging, boats, deterioration of the uncompleted work, loss of ship's material and stores while under seizure and in possession of the Government's officials	1,000.00
Loss of thirty-one days' time endeavoring to reach Bersimis (see marine protest herewith), at 8 cents per register ton per diem	3,861.36
Loss by forced abandonment of voyage to Liverpool, Great Britain, via Bersimis, on account of the lateness of the season, made up as follows:	
Gross estimated freight	£1,900 0 0
Total estimated disbursements at Bersimis	175 0 0
Net freight in ship when sailing from Bersimis ..	1,725 0 0

CREDIT.

Substituted voyage to Liverpool via St. John:

Gross freight under the charter	£1,454 17 6
Less expenses in St. John getting the cargo.....	577 10 0

Net freight from St. John under substituted charter	877 7 6
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Difference between what ship would have earned via Bersimis and what she did earn via St. John to Liverpool (£847 12s 6d; exchange, \$4.84).....	\$4,102 54
John H. Allen, agent and attorney, his time and expenses from July 27, 1887, to December 23, 1887, suing for the recovery of the ship and generally directing it on the substituted voyage, including all legal charges.	5,000.00
Accrued interest on \$24,053.38 from December 23, 1887, to January 23, 1889.	1,563.80

The claimant's statements to date	25,637.18
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And interest thereafter till paid at 6 per cent. per annum.	
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The owner further claims that should the Government demand compensation in behalf of the ship-owners, making its cause its own (as the circumstances justify), the demurrage should be that fixed by the convention of 1862, viz, £5 sterling per day for every 100 tons of the ship's registered tonnage, instead of what the owner has claimed under the commercial usage, viz, 8 cents per ton per day, making the sum due to date under this principle, \$47,000.

Brooklyn, N. Y., January 23, 1889.

MARY W. ALLEN.

No. 13.

Mr. Rives to Mrs. Allen.

DEPARTMENT OF STATE,
Washington, February 1, 1889.

MADAM: The amended statement of your claim against Great Britain for the seizure of the ship *Bridgewater*, which accompanied your letter of the 23d ultimo, has been received and placed on file. The Department will be compelled, however, to retain the original statement on its files, since it has been made the subject of official action.

I am, madam, etc.,

G. L. RIVES,
Assistant Secretary.

